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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,413	07/01/2003	Guy Howard	199-0070US-C	1958
29855 75	55 7590 11/03/2005		EXAMINER	
WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI,			HAROON, ADEEL	
P.C. 20333 SH 249			ART UNIT	PAPER NUMBER
SUITE 600			2685	
HOUSTON, T	X 77070		DATE MAILED: 11/03/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

·	Application No.	Applicant(s)	
	10/611,413	HOWARD, GUY	
Office Action Summary	Examiner	Art Unit	
	Adeel Haroon	2685	
The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the c	orrespondence address	
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DA  - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication.  - If NO period for reply is specified above, the maximum statutory period w  - Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be tim fill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONE	I.  lely filed  the mailing date of this communication.  D (35 U.S.C. § 133).	
Status			
1)☐ Responsive to communication(s) filed on  2a)☐ This action is <b>FINAL</b> . 2b)☑ This  3)☐ Since this application is in condition for allowar closed in accordance with the practice under E	action is non-final. nce except for formal matters, pro		
Disposition of Claims		·	
4)  Claim(s) 1-20 is/are pending in the application. 4a) Of the above claim(s) is/are withdraw 5)  Claim(s) is/are allowed. 6)  Claim(s) 1-20 is/are rejected. 7)  Claim(s) is/are objected to. 8)  Claim(s) are subject to restriction and/or	vn from consideration.		
9) The specification is objected to by the Examine 10) The drawing(s) filed on is/are: a) access applicant may not request that any objection to the Replacement drawing sheet(s) including the correct 11) The oath or declaration is objected to by the Examine	epted or b) objected to by the lddrawing(s) be held in abeyance. Section is required if the drawing(s) is object.	e 37 CFR 1.85(a). jected to. See 37 CFR 1.121(d).	
Priority under 35 U.S.C. § 119			
12) ☐ Acknowledgment is made of a claim for foreign  a) ☐ All b) ☐ Some * c) ☐ None of:  1. ☐ Certified copies of the priority documents  2. ☐ Certified copies of the priority documents  3. ☐ Copies of the certified copies of the prior application from the International Bureau  * See the attached detailed Office action for a list	s have been received. s have been received in Applicati rity documents have been receive u (PCT Rule 17.2(a)).	on No ed in this National Stage	
Attachment(s)  1) Notice of References Cited (PTO-892)  2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date	4) Interview Summary Paper No(s)/Mail Di 5) Notice of Informal F 6) Other:		

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## **DETAILED ACTION**

## **Double Patenting**

1. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer <u>cannot</u> overcome a double patenting rejection based upon 35 U.S.C. 101.

2. Claims 1-20 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-20 of prior U.S. Patent No. 6,587,682. This is a double patenting rejection.

## Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adeel Haroon whose telephone number is (571) 272-7405. The examiner can normally be reached on Monday thru Friday, 8:30 a.m. - 5:00 p.m..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban can be reached on (571) 272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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